

## 2013 DRAFTING REQUEST

### Bill

Received: 5/14/2013 Received By: phurley  
Wanted: As time permits Same as LRB:  
For: Evan Goyke (608) 266-0645 By/Representing: Ryan  
May Contact: Drafter: phurley  
Subject: Courts - immunity liability Addl. Drafters:  
Criminal Law - miscellaneous Extra Copies:

Submit via email: YES  
Requester's email: Rep.Goyke@legis.wisconsin.gov  
Carbon copy (CC) to:

---

#### Pre Topic:

No specific pre topic given

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#### Topic:

Include social workers in castle doctrine exception

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#### Instructions:

email of 5-14-13

---

#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 5/16/2013			_____			
/1	phurley 6/3/2013	evinz 6/3/2013	jfrantze 6/4/2013	_____	lparisi 5/28/2013		
/2	phurley 7/22/2013			_____	srose 6/4/2013		
/3		evinz	jfrantze	_____	srose	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		7/24/2013	7/25/2013	_____	7/25/2013	1/21/2014	

FE Sent For:

↳ Not  
Needed

<END>

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May Contact:		Drafter:	<b>phurley</b>
Subject:	<b>Courts - immunity liability Criminal Law - miscellaneous</b>	Addl. Drafters:	
		Extra Copies:	

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/2	phurley 7/22/2013			_____	srose 6/4/2013		
/3		evinz	jfrantze	_____	srose		

Vers. Drafted

Reviewed  
7/24/2013

Typed  
7/25/2013

Proofed  
\_\_\_\_\_

Submitted  
7/25/2013

Jacketed

Required

FE Sent For:

**<END>**

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/1	phurley 6/3/2013	evinz 6/3/2013	jfrantze 6/4/2013		lparisi 5/28/2013		
/2					srose 6/4/2013		

FE Sent For:

13 eev  
7/24/13

7/25

<END>

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/?	phurley 5/16/2013			_____			
/1	phurley	evinz 5/24/2013	jmurphy 5/28/2013	_____	lparisi 5/28/2013		

FE Sent For:

12 eev  
6/3/13

ph  
6/4  
<END>

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/?	phurley 5/16/2013			_____			
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1/?	phurley	1/eev 5/24/13		_____			
				_____			

FE Sent For:

<END>





State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2367/1

RMR

.....  
PJH:eev:

2013 BILL

5-16-13  
d-note

SAV  
xref

gen cat

1

AN ACT **relating to:** using force against a social worker.

***Analysis by the Legislative Reference Bureau***

person

Under current law, in general, a person may use force in self-defense or in the defense of another person if: 1) the amount of force used is reasonable under the circumstances; and 2) the person reasonably believes using the force is necessary to stop an unlawful interference with himself or herself or another person, such as the crime of battery.

Under current law, a factfinder in a criminal case or a civil case involving a person's use of force intended to or likely to cause death or great bodily harm must presume that the person reasonably believed the force was necessary to prevent death or great bodily harm to himself or herself or to another person if: 1) the individual against whom the force was used was in the process of unlawfully and forcibly entering, or had already unlawfully and forcibly entered, the dwelling, motor vehicle, or, in the case of a business owner or operator, place of business of the person who used the force; 2) the person was present in that dwelling, motor vehicle, or place of business; and 3) the person knew or reasonably believed that an unlawful and forcible entry was occurring or had occurred. that

Under current law, the presumption ~~that~~ the person reasonably believed the force was necessary does not apply if the individual against whom the force was used had identified himself or herself as a public safety worker (or was or should have been known to be a public safety worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties.

Under this bill, the presumption that the person reasonably believed ~~that~~ the force ~~used~~ was necessary also does not apply if the individual against whom the force

**BILL**

was used had identified himself<sup>or herself</sup> as a social worker (or was or should have been known to be a social worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 895.62 (4) (b) (intro.) of the statutes is amended to read:

2           895.62 (4) (b) (intro.) The person against whom the force was used was a public  
3           safety worker, as defined in s. 941.375 (1) (b) or a social worker, as defined in s. 252.15  
4           (1)(er), who entered or attempted to enter the actor's dwelling, motor vehicle, or  
5           place of business in the performance of his or her official duties. This paragraph  
6           applies only if at least one of the following applies:

7           History: 2011 a. 94.

8           **SECTION 2.** 895.62 (4) (b) 1. of the statutes is amended to read:

9           895.62 (4) (b) 1. The public safety worker or social worker identified himself  
10          or herself to the actor before the force described in sub. (2) was used by the actor.

11          History: 2011 a. 94.

12          **SECTION 3.** 895.62 (4) (b) 2. of the statutes is amended to read:

13          895.62 (4) (b) 2. The actor knew or reasonably should have known that the  
14          person entering or attempting to enter his or her dwelling, motor vehicle, or place of  
15          business was a public safety worker or a social worker.

16          History: 2011 a. 94.

17          **SECTION 4.** 939.48 (1m) (b) 2. of the statutes is amended to read:

18          939.48 (1m) (b) 2. The person against whom the force was used was a public  
19          safety worker, as defined in s. 941.375 (1) (b) or a social worker, as defined in s. 252.15  
20          (1)(er), who entered or attempted to enter the actor's dwelling, motor vehicle, or  
21          place of business in the performance of his or her official duties. This subdivision  
22          applies only if at least one of the following applies:

**BILL**

1           a. The public safety worker or social worker identified himself or herself to the  
2       actor before the force described in par. (ar) was used by the actor.

3           b. The actor knew or reasonably should have known that the person entering  
4       or attempting to enter his or her dwelling, motor vehicle, or place of business was a  
5       public safety worker or a social worker.

6       **History:** 1987 a. 399; 1993 a. 486; 2005 a. 253; 2011 a. 94.

(END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-23677dn

1

.....  
P5H: eev.

date

Representative Goyke,

△ Please note that this draft uses the definition of "social worker" found in s. 252.15(1)(er), which defines a social worker as "an individual who is certified or licensed as a social worker, advanced practice social worker, independent social worker, or clinical social worker under ch. 457." Please let me know if you would like to use a different definition.

If you have any other questions or concerns about the draft, please let me know.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2367/1dn  
PJH:eev:jm

May 28, 2013

Representative Goyke,

Please note that this draft uses the definition of "social worker" found in s. 252.15 (1) (er), which defines a social worker as "an individual who is certified or licensed as a social worker, advanced practice social worker, independent social worker, or clinical social worker under ch. 457." Please let me know if you would like to use a different definition.

If you have any other questions or concerns about the draft, please let me know.

Peggy Hurley  
Legislative Attorney  
Phone: (608) 266-8906  
E-mail: [peggy.hurley@legis.wisconsin.gov](mailto:peggy.hurley@legis.wisconsin.gov)

## **Hurley, Peggy**

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**From:** Knocke, Ryan  
**Sent:** Thursday, May 30, 2013 9:24 AM  
**To:** Hurley, Peggy  
**Subject:** Revision for LRB-2367/1

Peggy-

I hope you are having a good morning. Rep. Goyke has a slight revision to the Castle Doctrine change draft that you put together that would be a little more inclusive of other health professions. Could this change be made and a new draft be sent to us? Thank you so very much!

- Ryan

Ryan:

I would suggest adding this language to the bill "Certified or licensed social worker or other mental health, human services, social services or public health staff "



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2367/1

PJH:eev:jm

stays

2013 BILL

mental health workers,  
human services or  
social services workers,  
or public health workers

6-3-13

Certified or  
licensed

1 AN ACT to amend 895.62 (4) (b) (intro.), 895.62 (4) (b) 1., 895.62 (4) (b) 2. and  
2 939.48 (1m) (b) 2. of the statutes; relating to: using force against a social  
3 worker

*Analysis by the Legislative Reference Bureau*

Under current law, in general, a person may use force in self-defense or in the defense of another person if: 1) the amount of force used is reasonable under the circumstances; and 2) the person reasonably believes using the force is necessary to stop an unlawful interference with himself or herself or another person, such as the crime of battery.

Under current law, a fact finder in a criminal case or a civil case involving a person's use of force intended to or likely to cause death or great bodily harm must presume that the person reasonably believed the force was necessary to prevent death or bodily harm to himself or herself or to another person if: 1) the individual against whom the force was used was in the process of unlawfully and forcibly entering, or had already unlawfully and forcibly entered, the dwelling, motor vehicle, or, in the case of a business owner or operator, place of business, of the person who used the force; 2) the person was present in that dwelling, motor vehicle, or place of business; and 3) the person knew or reasonably believed that an unlawful and forcible entry was occurring or had occurred.

Under current law, the presumption that the person reasonably believed the force was necessary does not apply if the individual against whom the force was used had identified himself or herself as a public safety worker (or was or should have been

## BILL

known to be a public safety worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties.

Under this bill, the presumption that the person reasonably believed the force was necessary also does not apply if the individual against whom the force was used had identified himself or herself as a social worker (or was or should have been known to be a social worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

health or welfare

SECTION 1. 895.62 (4) (b) (intro.) of the statutes is amended to read:

895.62 (4) (b) (intro.) The person against whom the force was used was a public safety worker, ~~as defined in s. 941.375 (1) (b),~~ or a social worker, as defined in s.

252.15 (1) (er) <sup>strike</sup> who entered or attempted to enter the actor's dwelling, motor vehicle, or place of business in the performance of his or her official duties. This paragraph applies only if at least one of the following applies:

SECTION 2. 895.62 (4) (b) 1. of the statutes is amended to read:

895.62 (4) (b) 1. The public safety worker or social worker identified himself or herself to the actor before the force described in sub. (2) was used by the actor.

SECTION 3. 895.62 (4) (b) 2. of the statutes is amended to read:

895.62 (4) (b) 2. The actor knew or reasonably should have known that the person entering or attempting to enter his or her dwelling, motor vehicle, or place of business was a public safety worker or a social worker.

SECTION 4. 939.48 (1m) (b) 2. of the statutes is amended to read:

939.48 (1m) (b) 2. The person against whom the force was used was a public safety worker, ~~as defined in s. 941.375 (1) (b),~~ or a social worker, as defined in s.

252.15 (1) (er) who entered or attempted to enter the actor's dwelling, motor vehicle,

Insert  
2.13



**BILL**

1 or place of business in the performance of his or her official duties. This subdivision  
2 applies only if at least one of the following applies: health, or welfare

3 a. The public safety worker or social worker identified himself or herself to the  
4 actor before the force described in par. (ar) was used by the actor.

5 b. The actor knew or reasonably should have known that the person entering  
6 or attempting to enter his or her dwelling, motor vehicle, or place of business was a  
7 public safety worker or a social worker health, or welfare

8 (END)

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2367/lins  
PJH:eev:jm

1 **NG** INSERT ANALYSIS 1:

2 Current law defines a "public safety worker" as a licensed emergency medical  
3 technician, a certified first responder, a peace officer, a fire fighter, or a person  
4 operating or staffing an ambulance.

5 INSERT ANALYSIS 2:

6 **H** This bill defines a "public safety, health, or welfare worker" as a public safety  
7 worker, a certified, licensed, or otherwise practicing social worker, a mental health  
8 worker, a human services or social worker, or a public health worker. Under the bill,  
9 the presumption that the person reasonably believed the force was necessary does  
10 not apply if the individual against whom the force was used had identified himself  
11 or herself as a public safety, health, or welfare worker (or was known or should have  
12 been known by the person who used force to be a public safety, health, or welfare  
13 worker) and was entering the dwelling, motor vehicle, or place of business in the  
14 performance of his or her official duties.

15 INSERT 2.1:

SECTION 1. 895.62 (1) (d) of the statutes is created to read:

895.62 (1) (d) "Public safety, health, or welfare worker" means a public safety  
worker, as defined in s. 941.375 (1) (b), a social worker, as defined in s. 252.15 (1) (er),  
a mental health worker, a human services or social services worker, or a public health  
worker.

INSERT 2.13:

SECTION 2. 939.48 (1m) (a) 3. of the statutes is created to read:

939.48 (1m) (a) 3. "Public safety, health, or welfare worker" means a public  
safety worker, as defined in s. 941.375 (1) (b), a social worker, as defined in s. 252.15  
(1) (er), a mental health worker, a human services or social services worker, or a  
public health worker.

## **Hurley, Peggy**

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**From:** Knocke, Ryan  
**Sent:** Monday, July 22, 2013 1:28 PM  
**To:** Hurley, Peggy  
**Subject:** RE: Rep. Goyke Follow-Up to LRB: 2367/2

Yes, please! Thank you!!!

---

**From:** Hurley, Peggy  
**Sent:** Monday, July 22, 2013 1:27 PM  
**To:** Knocke, Ryan  
**Subject:** RE: Rep. Goyke Follow-Up to LRB: 2367/2

Hi Ryan,

While the definition of the included "public safety, health, or welfare worker" is pretty broad in the draft, I think to be on the safe side it'd be a good idea to add "a school social worker licensed by the department of public instruction" to the list. Shall I pull the draft and make that change?

Peggy

---

**From:** Knocke, Ryan  
**Sent:** Monday, July 22, 2013 1:20 PM  
**To:** Hurley, Peggy  
**Subject:** Rep. Goyke Follow-Up to LRB: 2367/2

Peggy-

I hope this message finds you well and that you had a good weekend. Just a fine tuning question related to this draft – We received this question below from a gentleman we are working on this bill with. Would these social workers be included under the draft as is or would we have to make a small change. Rep. Goyke would want these individuals to be included. Thank you for looking at this!

- Ryan

Representative Goyke:

Could you check with the Legislative Reference Bureau to make sure School Social Workers, who are licensed by the Department of Public Instruction, are included in this bill. They are sometime forgotten as all other social workers are certified or licensed through the Department of Safety and Professional Services.

Ryan Knocke  
Legislative Aide  
Office of State Representative Evan Goyke  
Telephone: (608) 266-0645



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-2367/2

PJH:eev:jf

Stacy Mr

PK

2013 BILL

7.22.13

1 **AN ACT** *to amend* <sup>school social worker,</sup> ~~895.62 (4) (b) (intro.), 895.62 (4) (b) 1., 895.62 (4) (b) 2. and~~  
2 ~~939.48 (1m) (b) 2.; and~~ *to create* <sup>regen</sup> ~~895.62 (1) (d) and 939.48 (1m) (a) 3. of the~~  
3 ~~statutes; relating to:~~ using force against a certified or licensed social worker,  
4 mental health worker, human services or social services worker, or public  
5 health worker.

***Analysis by the Legislative Reference Bureau***

Under current law, in general, a person may use force in self-defense or in the defense of another person if: 1) the amount of force used is reasonable under the circumstances; and 2) the person reasonably believes using the force is necessary to stop an unlawful interference with himself or herself or another person, such as the crime of battery.

Under current law, a fact finder in a criminal case or a civil case involving a person's use of force intended to or likely to cause death or great bodily harm must presume that the person reasonably believed the force was necessary to prevent death or bodily harm to himself or herself or to another person if: 1) the individual against whom the force was used was in the process of unlawfully and forcibly entering, or had already unlawfully and forcibly entered, the dwelling, motor vehicle, or, in the case of a business owner or operator, place of business, of the person who used the force; 2) the person was present in that dwelling, motor vehicle, or place of business; and 3) the person knew or reasonably believed that an unlawful and forcible entry was occurring or had occurred.

**BILL**

Under current law, the presumption that the person reasonably believed the force was necessary does not apply if the individual against whom the force was used had identified himself or herself as a public safety worker (or was or should have been known to be a public safety worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties. Current law defines a "public safety worker" as a licensed emergency medical technician, a certified first responder, a peace officer, a fire fighter, or a person operating or staffing an ambulance.

This bill defines a "public safety, health, or welfare worker" as a public safety worker, a certified, licensed, or otherwise practicing social worker, a mental health worker, a human services or social services worker, or a public health worker. Under the bill, the presumption that the person reasonably believed the force was necessary does not apply if the individual against whom the force was used had identified himself or herself as a public safety, health, or welfare worker (or was known or should have been known by the person who used force to be a public safety, health, or welfare worker) and was entering the dwelling, motor vehicle, or place of business in the performance of his or her official duties.

a school  
social  
worker,

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

licensed by the department of public  
instruction,

1       **SECTION 1.** 895.62 (1) (d) of the statutes is created to read:

2       895.62 (1) (d) "Public safety, health, or welfare worker" means a public safety  
3       worker, as defined in s. 941.375 (1) (b), a social worker, as defined in s. 252.15 (1) (er),  
4       a mental health worker, a human services or social services worker, or a public health  
5       worker.

6       **SECTION 2.** 895.62 (4) (b) (intro.) of the statutes is amended to read:

7       895.62 (4) (b) (intro.) The person against whom the force was used was a public  
8       safety, health, or welfare worker, ~~as defined in s. 941.375 (1) (b),~~ who entered or  
9       attempted to enter the actor's dwelling, motor vehicle, or place of business in the  
10      performance of his or her official duties. This paragraph applies only if at least one  
11      of the following applies:

12      **SECTION 3.** 895.62 (4) (b) 1. of the statutes is amended to read:

**BILL**

1           895.62 (4) (b) 1. The public safety, health, or welfare worker identified himself  
2           or herself to the actor before the force described in sub. (2) was used by the actor.

3           **SECTION 4.** 895.62 (4) (b) 2. of the statutes is amended to read:

4           895.62 (4) (b) 2. The actor knew or reasonably should have known that the  
5           person entering or attempting to enter his or her dwelling, motor vehicle, or place of  
6           business was a public safety, health, or welfare worker.

7           **SECTION 5.** 939.48 (1m) (a) 3. of the statutes is created to read:

8           939.48 (1m) (a) 3. "Public safety, health, or welfare worker" means a public  
9           safety worker, as defined in s. 941.375 (1) (b), a social worker, as defined in s. 252.15  
10          (1) (er), a mental health worker, a human services or social services worker, or a  
11          public health worker.

12          **SECTION 6.** 939.48 (1m) (b) 2. of the statutes is amended to read:

13          939.48 (1m) (b) 2. The person against whom the force was used was a public  
14          safety, health, or welfare worker, ~~as defined in s. 941.375 (1) (b),~~ who entered or  
15          attempted to enter the actor's dwelling, motor vehicle, or place of business in the  
16          performance of his or her official duties. This subdivision applies only if at least one  
17          of the following applies:

18               a. The public safety, health, or welfare worker identified himself or herself to  
19               the actor before the force described in par. (ar) was used by the actor.

20               b. The actor knew or reasonably should have known that the person entering  
21               or attempting to enter his or her dwelling, motor vehicle, or place of business was a  
22               public safety, health, or welfare worker.

23               a school social worker licensed by the department of public instruction (END)

**Rose, Stefanie**

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**From:** Knocke, Ryan  
**Sent:** Tuesday, January 21, 2014 9:37 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2367/3 Topic: Include social workers in castle doctrine exception

Please Jacket LRB -2367/3 for the ASSEMBLY.